IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 341 OF 2002

The Commissioner of Income tax,
Mumbai-II, Mumbai .. appellant

v/s.

M/s. L & T McNeil Ltd. .. Respondent

Mr. K.R.Chaudhary i/by Mr.H.D.Rathod for appellant.

Mr.A.K.Jesani i/by M/s.T.Poran & Co. for respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 18th August, 2004

P.C.

Heard.

2. In this appeal, two substantial questions of law have been proposed. The said questions read thus-

> "1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the order of the CIT(A) deleting the addition of Rs.30,94,277/- made by assessing officer to the closing stock on account of unutilised Modvat Credit?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the order of the CIT(A) in directing the assessing officer to delete the disallowance of Rs.44,389/- in respect of royalty paid by the assessee as revenue expenditure?"

3. In the light of the judgment of the Supreme Court in the case of Commissioner of Income-Tax v. Indo Nippon Chemicals Co.Ltd., 261 ITR 275, the learned counsel for the revenue does not press

question No.1.

4. As regards question No.2, we find that the Tribunal has relied upon its order dated 10th September, 2001 passed in the matter of the assessee for the assessment year 1989-90. The learned counsel for the assessee submits that the income tax appeal filed by the revenue against the said order has been dismissed in default on 12th August, 2004.

5. No substantial question of law arises. Appeal is dismissed in limine.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)